

COOLEY GODWARD KRONISH LLP  
MICHAEL G. RHODES (116127) (rhodesmg@cooley.com)  
HEATHER C. MESERVY (223782) (hmeservy@cooley.com)  
4401 Eastgate Mall  
San Diego, CA 92121  
Telephone: (858) 550-6000  
Facsimile: (858) 550-6420

COOLEY GODWARD KRONISH LLP  
WHITTY SOMVICHIAN (194463) (wsomvichian@cooley.com)  
101 California Street, 5th Floor  
San Francisco, CA 94111  
Telephone: (415) 693-2000  
Facsimile: (415) 693-2222

Attorneys for Defendant eBay, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MICHELE MAZUR, On Behalf of Herself  
and all Others Similarly Situated,

Plaintiff,

v.

EBAY, INC., HOT JEWELRY  
AUCTIONS.COM d/b/a JEWELRY  
OVERSTOCK AUCTIONS, HOT  
JEWELRY AUCTIONS.COM d/b/a  
PARAMOUNT AUCTIONS, and DOES 1-  
100, inclusive,

Defendants.

Case No. C07 3967 MHP

**DECLARATION OF WHITTY SOMVICHIAN  
IN SUPPORT OF DEFENDANT EBAY INC.'S  
REQUEST FOR JUDICIAL NOTICE**

Date: December 10, 2007  
Time: 2:00 p.m.  
Judge: Hon. Marilyn H. Patel  
Trial Date: Not yet set

I, Whitty Somvichian, hereby declare as follows:

1. I am an attorney duly licensed to practice law in the State of California and am a partner with the firm of Cooley Godward Kronish LLP, counsel of record for Defendant eBay, Inc. ("eBay") in this action. I have personal knowledge of the facts set forth herein, and, if called as a witness, I could and would competently testify thereto.

2. Attached hereto as Exhibit A is a true and correct copy of eBay's User Agreement

1 as referred to in paragraph 138 of Plaintiff's Class Action Complaint ("Complaint"). The User  
2 agreement is currently available at <http://pages.ebay.com/help/policies/user-agreement.html>.

3 3. Attached hereto as Exhibit B is a true and correct copy of eBay's Live Auction  
4 User Agreement as referred to in paragraph 138 of the Complaint. The Live Auction User  
5 Agreement is currently available at  
6 [http://pages.ebay.com/liveauctions/help/community/LA\\_useragreement.html](http://pages.ebay.com/liveauctions/help/community/LA_useragreement.html).

7 4. Attached hereto as Exhibit C is a true and correct copy of eBay's "Are Live  
8 Auctions Safe?" help page as referred to in paragraphs 31, and 32 of the Complaint. This help  
9 page is currently available at <http://pages.ebay.com/liveauctions/help/welcome/lasafe.html>.

10 5. Attached hereto as Exhibit D is a true and correct copy of eBay's "How Live  
11 Auctions Work" help page as referred to in paragraphs 29, and 30 of the Complaint. This help  
12 page is currently available at [http://pages.ebay.com/liveauctions/help/welcome/how\\_works.html](http://pages.ebay.com/liveauctions/help/welcome/how_works.html).

13 6. Attached hereto as Exhibit E is a true and correct copy of the Order Granting  
14 Defendant eBay Inc.'s Motion to Dismiss the Third Cause of Action, *Butler v. eBay Inc.*, 06-  
15 02704 (N.D. Cal. Dec. 13, 2006).

16 I declare under penalty of perjury under the laws of the United States that the foregoing is  
17 true and correct. Executed this 26th day of October, 2007 at San Francisco, California.

18  
19 /s/ Whitty Somvichian  
20 Whitty Somvichian  
21  
22  
23  
24  
25  
26  
27  
28